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10 Federal Trade Commission

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 FEDERAL TRADE COMMISSION,

14 Plaintiff,

15 v.

16 MDK MEDIA INC., et al.,

17 Defendants.

18 De.nn e.l v. 050.4 (da)99J0 Tc 0 Tw 2.188829Td()T-EMC-04 T1 -0.04 T1 14.39325Td[(e)0Jd

1 deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15
2 U.S.C. § 45, in a scheme to place unauthorized charges on consumers' mobile
3 telephone bills, a practice known as "cramming."

4 3. Settling Defendants neither admit nor deny any of the allegations in
5 the First Amended Complaint, except as specifically stated in this Order. Only for
6 purposes of this action, Settling Defendants admit the facts necessary to establish
7 jurisdiction.

8 4. Settling Defendants
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1 facilitating the billing or submitting for billing, charges to any telephone bill,
2 including but not limited to a bill for any voice, text, or data service.

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4 IT IS FURTHER ORDERED that, in connection with the advertising,
5 marketing, promotion, offering for sale, sale, or distribution of any product or
6 service, Settling Defendants, Settling Defendants B

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1 A. Each Settling Defendant, within 7 days of entry of this Order, must
2 submit to the Commission an acknowledgment of receipt of this Order sworn
3 under penalty of perjury.

4 B. For 3 years after entry of this Order, each Individual Settling
5 Defendant for any business involved with placing charges on phone bills that such
6 Defendant, individually or collectively with any other Defendants, is the majority
7 owner or controls directly or indirectly, and each Corporate Settling Defendant,
8 must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC
9 managers and members; (2) all employees having managerial responsibilities for
10 the placement of charges on phone bills and all agents and representatives who
11 participate in the placement of charges on phone bills; and (3) any business entity
12 resulting from any change in structure as set forth in the Section titled Compliance
13 Reporting. Delivery must occur within 7 days of entry of this Order for current
14 personnel. For all others, delivery must occur before they assume their
15 responsibilities.

16 C. From each individual or entity to which a Settling Defendant
17 delivered a copy of this Order, that Settling Defendant must obtain, within 30 days,
18 a signed and dated acknowledgment of receipt of this Order.

1 the activities of each business, including the goods and services offered, the means
2 of advertising, marketing, and sales, and the involvement of any other Defendant
3 (which Individual Settling Defendant must describe if he knows or should know
4 due to his own involvement); (d) describe in detail whether and how that
5 Defendant is in compliance with each Section of this Order; and (e) provide a copy
6 of each Order Acknowledgment obtained pursuant to this Order, unless previously
7 submitted to the Commission.

8 2. Additionally, Individual Settling Defendant must: (a) identify
9 all telephone numbers and all physical, postal, email and Internet addresses,
10 including all residences; (b) identify all business activities, including any business
11 for which such Defendant performs services whether as an employee or otherwise
12 and any entity in which such Defendant has any ownership interest; and (c)
13 describe in detail such Defendant's involvement in each such business, including
14 title, role, responsibilities, participation, authority, control, and any ownership.

15 B. For 3 years after entry of this Order, each Settling Defendant must
16 submit a compliance notice, sworn under penalty of perjury, within 14 days of any
17 change in the following:

18 1. Each Settling Defendant must report any change in: (a) any
19 designated point of contact; or (b) the structure of any Corporate Settling
20 Defendant or any entity that any Settling Defendant has any ownership interest in
21 or controls directly or indirectly that may affect compliance obligations arising
22 under this Order, including: creation, merger, sale, or dissolution of the entity or
23 any subsidiary, parent, or affiliate that engages in any acts or practices subject to
24 this Order.

25 2. Additionally, each Individual Settling Defendant must report
26 any change in: (a) name, including aliases or fictitious name, or residence address;
27 or (b) title or role in any business activity, including any business for which such
28 Defendant performs services whether as an employee or otherwise and any entity

1 numbers; job title or position; dates of service; and (if applicable) the reason for
2 termination;

3 C. records of all consumer complaints and refund requests, whether
4 received directly or indirectly, such as through a third party, and any response;

5 D. all records necessary to demonstrate full compliance with each
6 provision of this Order, including all submissions to the Commission; and

7 E. a copy of each unique advertisement or other marketing material.
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9 IT IS FURTHER ORDERED that, for the purpose of monitoring Settling
10 Defendants' compliance with this Order:

11 A. Within 14 days of receipt of a written request from a representative of
12 the Commission, each Settling Defendant must: submit additional compliance
13 reports or other requested information, which must be sworn under penalty of
14 perjury; appear for depositions; and produce documents for inspection and
15 copying. The Commission is also authorized to obtain discovery, without further
16 leave of court, using any of the procedures prescribed by Federal Rules of Civil
17 Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

18 B. For matters concerning this Order, the Commission is authorized to
19 communicate directly with each Settling Defendant. Settling Defendant must
20 permit representatives of the Commission to interview any employee or other
21 person affiliated with any Settling Defendant who has agreed to such an interview.
22 The person interviewed may have counsel present.

23 C. The Commission may use all other lawful means, including posing,
24 through its representatives as consumers, suppliers, or other individuals or entities,
25 to Settling Defendants or any individual or entity affiliated with Settling
26 Defendants, without the necessity of identification or prior notice. Nothing in this
27 Order limits the Commission's lawful use of compulsory process, pursuant to
28 Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

